

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KPM ANALYTICS NORTH AMERICA
CORPORATION,

Plaintiff,

v.

BLUE SUN SCIENTIFIC, LLC, THE
INNOVATIVE TECHNOLOGIES GROUP
& CO., LTD., ARNOLD EILERT,
MICHELLE GAJEWSKI, ROBERT
GAJEWSKI, RACHAEL GLENISTER,
GREGORY ISRAELSON, IRVIN LUCAS,
AND PHILIP OSSOWSKI

Defendants.

Civil Action No. 4:21-CV-10572-TSH

**PLAINTIFF KPM ANALYTICS NORTH AMERICA CORPORATION'S ASSENTED
TO MOTION TO IMPOUND AND FOR LEAVE TO FILE DOCUMENTS UNDER SEAL**

Plaintiff KPM Analytics North America Corporation respectfully requests that the Court grant leave to file under seal its motion for leave to file a short reply brief in further support of its motion for preliminary injunction. In support of this motion, KPM states as follows:

1. On April 5, 2021, KPM filed the Verified Complaint in this action, alleging, among other things, that the defendants misappropriated and disclosed KPM's trade secrets and confidential information.

2. On April 6, 2021, KPM filed a motion for preliminary injunction (ECF No. 7). This Court subsequently ordered expedited discovery. On June 17, 2021, at the parties' request, this Court entered a Stipulated Protective Order (ECF No. 59), allowing the parties to designate certain documents and testimony as confidential or highly confidential so that such material is not disclosed to individuals or publicly in a way that would harm the business interests of the parties,

among other things. That Stipulated Protective Order also provided that “Without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons, a Party may not file in the public record in this action any Protected Material but may file Protected Material under seal in accordance with the rules of the Court.” Protected Material includes material designated confidential and highly confidential.

3. During the course of discovery, each of the parties designated certain documents and deposition testimony as either confidential or highly confidential.

4. On July 16, 2021, after a hearing on KPM’s motion for a preliminary injunction, this Court ordered supplemental briefing by KPM (due on or before July 23, 2021) and subsequently by the defendants (due on or before July 30, 2021). See ECF No. 66.

5. On July 23, 2021, KPM filed its supplemental briefing under seal after receiving leave of Court to do so. ECF No. 73 (allowing leave to file under seal). On July 30, 2021, the defendants filed their supplemental briefing under seal after receiving leave of Court to do so. ECF No. 79 (allowing leave to file under seal).

6. KPM intends to file a motion for leave to file a short reply brief in further support of its motion for a preliminary injunction. KPM’s motion for leave makes specific reference to the defendants’ briefs and supporting material that were filed under seal based on their containing confidential and highly confidential material, and therefore contains material that is protected by the Stipulated Protective Order.

7. No party will be prejudiced by allowing KPM to file its motion for leave under seal.

8. KPM conferred with counsel for Defendants, who assented to the relief requested in this motion.

WHEREFORE, KPM respectfully requests that the Court allow KPM to file under seal its motion for leave to file a reply brief in further support of its motion for preliminary injunction.

KPM Analytics North America Corporation,

By its attorneys,

/s/ John T. Gutkoski

John T. Gutkoski (BBO No. 567182)

Cesari & McKenna LLP

One Liberty Square, Suite 310

Boston, MA 02109

Phone: (617) 951-2500

JTG@c-m.com

AND

Scott R. Magee (BBO No. 664067)

Paige Zacharakis (BBO No. 699108)

Morse, Barnes-Brown & Pendleton, P.C.

480 Totten Pond Road, 4th Floor

Waltham, MA 02451

Phone: (781) 622-5930

Fax: (781) 622-5933

smagee@morse.law

pzacharakis@morse.law

August 5, 2021

Certificate of Compliance with Local Rule 7.1

This hereby certifies that counsel for Plaintiff conferred with counsel for each of the Defendants, who assented to the relief requested in this motion.

/s/ Scott R. Magee

Scott R. Magee

Certificate of Service

This hereby certifies that on August 5, 2021, this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Scott R. Magee
Scott R. Magee